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LETTER OF TRANSMITTAL
SAS Foundations E2/T1 Project

Run Date 15-Feb-08
Time 11:13 AM

Dated 2-15-08

TRANSMITTAL No: KFM-TRN-000722

Rev: 00

To: **Pedro Sanchez**
Caltrans - SAS E2/T1 Foundation Project
333 Burma Road
Oakland CA 94607
Phone: 510-286-0538 Fax:

Co/Job # 364-4347
Contract # 04-0120E4
Sub/Supplier:
Sub/Supplier No:

Subject: NOPC 13 - Final Notice of Potential Claim

Special Provis. (SP) REF:
Standard Spec. (SS) REF:
RESUBMITTAL/SUPPLEMENTAL REF:

We are sending the following attached items: ☒ Attached

☐ Via Fax

- | | | |
|--|--|---|
| <input type="checkbox"/> Contract Plans/Specs | <input type="checkbox"/> Certs of Compl./Samples | <input type="checkbox"/> Working Drawings |
| <input type="checkbox"/> Drawings/Calculations | <input type="checkbox"/> Schedule | <input type="checkbox"/> WQCP and/or Addenda |
| <input type="checkbox"/> Change Order | <input type="checkbox"/> Progress Estimate Request | <input type="checkbox"/> Weekly Welding Reports |
| <input type="checkbox"/> Copy of Letter | <input type="checkbox"/> Payroll Information | <input type="checkbox"/> CWR Procedure |

Item	Date	Copies	Description	Pages
01	15-Feb-2008	1	NOPC 13 - Final Notice of Potential Claim	

These are transmitted as checked below:

- | | | |
|--|---|--|
| <input type="checkbox"/> For Approval | <input type="checkbox"/> For Review/Comment | <input type="checkbox"/> Return For Correction |
| <input checked="" type="checkbox"/> For Your Use | <input type="checkbox"/> As Requested | <input type="checkbox"/> For Information |

Remarks:

CC:

Submitted By: **George Atkinson**

(KFM Staff Member - Originator of Transmittal)

Checked & Sent By: **D. Senning**

Contract Admin/DCS Staff



STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
**FULL AND FINAL DOCUMENTATION OF
POTENTIAL CLAIM**
CEM-6201C (NEW 9/2002)

FOR STATE USE ONLY		
Received By	(For resident engineer)	Date

TO Pedro Sanchez (resident engineer)	CONTRACT NUMBER 04-0120E4	DATE February 15, 2008	IDENTIFICATION NUMBER 13-011408
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This is the Full and Final Documentation of Potential Claim for additional compensation submitted as required under the provisions of Section 9-1.04, "Notice of Potential Claim," of the Standard Specifications. The act of the engineer, or his/her failure to act, or the event, thing, occurrence, or other cause giving rise to the potential claim occurred on:

DATE: January 14, 2008

The complete and factual narration of events which fully describe the nature and circumstances that caused the dispute or disagreement and potential claim are attached hereto.

Please see attached "NOPC 13-011408 - Final Notice of Potential Claim"

(attach sheets as required for full and final documentation)

The basis of this claim including all relevant contract provisions and a statement of the reasons these provisions support and provide basis for entitlement of the potential claim are attached hereto.

Please see attached "NOPC 13-011408 - Final Notice of Potential Claim"

(attach sheets as required for full and final documentation)

The identification and copies of any documents and substance of any oral communication that support the potential claim are attached hereto.

Please see attached "NOPC 13-011408 - Final Notice of Potential Claim"

(attach sheets as required for full and final documentation)

The exact dollar amount requested and an itemized breakdown of individual costs segregated by labor, materials, equipment and other are attached hereto.

Please see attached "NOPC 13-011408 - Final Notice of Potential Claim"

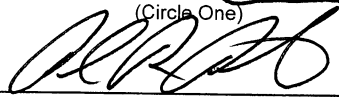
(attach sheets as required for full and final documentation)

The exact amount of any time adjustment requested including justification thereof and time impact analysis are attached hereto.

Please see attached "NOPC 13-011408 - Final Notice of Potential Claim"

(attach sheets as required for full and final documentation)

The undersigned originator (Contractor or Subcontractor as appropriate) certifies that the above statements and attached documentation are made in full cognizance of the California False Claims Act, Government Code sections 12650-12655. The undersigned further understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 9-1.04 of the Standard Specifications and must be restated as a claim in the Contractors written statement of claims in conformance with Section 9-1.07B of the Standard Specifications.

Kienig / PEI / Manson ADV
SUBCONTRACTOR or CONTRACTOR
(Circle One)

(Authorized Representative)

For a subcontractor potential claim

This notice of potential claim is acknowledged, certified and forwarded by

PRIME CONTRACTOR

(Authorized Representative)

NOPC 13-011408 -- Final Notice of Potential Claim

Nature and Circumstances of Dispute

Kiewit/FCI/Manson AJV ("KFM") has performed extra work at the State's direction to repair cracked concrete in the Pier E2 footing. KFM has provided information to the State to enable a Contract Change Order for this work to be issued. No change order for this work has been issued.

Cracks in the Pier E2 footing fender walls and bottom slab were repaired pursuant to State Letter 3326 and KFM Letter 339. Contract Change Order No. 68 ("CCO 68") has been identified for this work. KFM performed this work in the field as directed and as subsequently accepted by the State. KFM has furnished a price proposal to the State for this work. A contract change order for this work has not been issued or approved by the Engineer.

KFM requests the Engineer issue a Contract Change Order for this work and provide immediate compensation to KFM.

Contract Basis of Claim

Imminent completion of all contract work by KFM and Contract Acceptance by the Department without an approved contract change order for this work gave rise to this NOPC.

The work directed by State Letter 3326 is not included in the original contract scope of work and is a change under the contract consistent with Standard Specification 4-1.03D, "Extra Work". The State has indicated by its statement of intent to issue a contract change order that the directed work is extra work.

KFM performed the work directed by the Engineer pending issuance of a Contract Change Order. Additional work was performed as disputed work per KFM Letter 339. All Pier E2 footing crack repair work has been completed and accepted by the State. However, the subject work continues to not be incorporated into the contract as no contract change order has been issued or approved by the Engineer.

Following completion of the crack repair work, Contract Work on the project continued towards completion and Contract Acceptance without this change order being issued or becoming effective and incorporated into the contract.

Amended Standard Specification 9-1.07B, "Final Payment and Claims", fifth paragraph, notes that claims made in response to the Proposed Final Estimate following Contract Acceptance will not be considered if the Contractor did not first comply with applicable notice or protest requirements of the contract including 9-1.04 "Notice of Potential Claim".

As CCO 68 was not effective as of January 14, 2008, and could not have been reasonably anticipated to be approved and effective by KFM's anticipated completion date of January 18, 2008, KFM made a Notice of Potential Claim to allow for claims associated with this work in accordance with Amended Standard Specification 9-1.07B, "Final Payment and Claims".

Cost Estimate

KFM previously furnished to the State a cost proposal in the amount of \$249,136.00 for this work. In accordance with subsequent discussions with State representatives KFM has revised its proposal amount to \$231,971.00. A copy of the revised proposal is attached hereto.

KFM's proposals takes into account concerns raised by the State in their letter #3713 regarding potential sources of cracking due to KFM's construction staging and methods.

Time Impact Analysis

KFM does not propose an adjustment to the contract time of performance as a result of this Notice of Potential Claim.

CCO #68 E2 Concrete Cracks

KFM Estimate Summary

Description	Quantity	Units	Rate	Amount	Labor	Equipment	Materials/STS	Subcontractors
KFM Labor and Equipment				\$23,993	\$21,749	\$ 2,244		
Lotus General Construction Inc				\$184,450				\$ 184,450
KECO Engineering Service				\$730			\$ 730	
CTL Engineering Service				\$1,995			\$ 1,995	
SUBTOTALS				\$211,168	\$ 21,749	\$ 2,244	\$ 2,725	\$ 184,450
TAX 8.50% or Bond for Sub				\$ -				\$ -
MARK-UPS				\$ 19,498	\$ 6,090	\$ 224	\$ 273	\$ 12,912
TOTALS for San Francisco				\$ 230,667	\$ 27,839	\$ 2,468	\$ 2,998	\$ 197,362
Bond (0.424%)				\$ 978				
City of SF Business License Tax @ 1.5% Labor				\$ 326				
Grand Total				\$ 231,971				

Time Impacts:	
KFM Delay	TBD

Crack Repair Accelerated Cost Analysis

Date	Description	KFM	Regular		Overtime		Doubletime		Total	KFM Equipment	Hours	Rate	Total	Lotus	Inv.#	Total
			Hours	Rate*	Hours	Rate*	Hours	Rate*								
7/14/2007	Repair CJ#1 Exterior Footing Wall	J. Gunning, T. Rohr, R. Herder	6 @ 56.05	12 @ 92.81					\$1,450.02					Epoxy Crew	891	\$9,300.00
7/27/2007	Repair CJ#2 Exterior Footing Wall	J. Gunning, C. Miller, G. Crocker,C. Puglisi	1 @ 56.05	3 @ 57.44					\$228.37	DB Vancouver	0.5	327.50	\$163.75	Epoxy Crew	894	\$7,300.00
9/12/2007	Repair CJ#3 Exterior Footing Wall	R. Lesley, N. Lohse	6	57.44					\$344.64					Epoxy Crew	60225	\$12,700.00
9/21/2007	Repair CJ#4 Exterior Footing Wall													Epoxy Crew	60226R	\$7,300.00
9/29/2007	Repair CJ#1 & #2 Fender Wall	R. Kiefer, C. Miller	4 @ 56.05	3 @ 54.22					\$386.86					Epoxy Crew	60231	\$7,300.00
9/30/2007	Repair CJ#1 & #2 Fender Wall	R. Kiefer					4.0	92.14	\$368.56	100 Ton Terex	4.0	90.00	\$360.00	Epoxy Crew	60231	"
10/19/2007	Repair CJ#3 Fender Wall													Epoxy Crew	60232	\$7,300.00
10/25/2007	Repair E2E Base													Epoxy Crew	60234R	\$61,000.00
10/26/2007	Repair E2E Base													Epoxy Crew	60234R	"
10/27/2007	Repair E2E Base													Epoxy Crew	60234R	"
10/28/2007														Epoxy Crew	60234R	"
10/29/2007	Repair E2E Base													Epoxy Crew	60234R	"
10/30/2007	Repair E2E Base													Epoxy Crew	60234R	"
10/31/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/1/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/2/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/3/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/4/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/5/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/6/2007	Repair E2E Base													Epoxy Crew	60234R	"
11/7/2007	Repair CJ#4 Fender Wall													Epoxy Crew	60234R	"
11/14/2007		KFM E2E soffit strip delayed by CT	1 Day	???												
11/15/2007		KFM E2E soffit strip delayed by CT	1 Day	???												
11/16/2007	Repair Conn. Beam Fender Wall	KFM E2E soffit strip delayed by CT	1 Day	???										Epoxy Crew	60240	\$80,250.00
11/17/2007	Repair Conn. Beam Fender Wall	KFM E2E soffit strip delayed by CT	1 Day	???										Epoxy Crew	60240	"
11/18/2007	Conn. Beam Fender Install & Repair Fender Wall	Roy, Scott, Edmund, Jamal, Corey, Charlie, R. Herder			9 @ 92.81	32 @ 86.37	16 @ 92.14		\$5,073.37	100 Ton Terex	8.0	90.00	\$720.00	Epoxy Crew	60240	"
11/19/2007	Repair E2W Base													Epoxy Crew	60240	"
11/20/2007	Repair E2W Base													Epoxy Crew	60240	"
11/21/2007	Repair E2W Base													Epoxy Crew	60240	"
11/22/2007														Epoxy Crew	60240	"
11/23/2007	Lower Conn Beam F/W & Soffit	Tim, Rod, Tom, Doug, Kieth, Josh, Nigel			17 @ 92.14	26.5 @ 92.81	72.5 @ 86.37		\$10,287.67				\$0.00			
11/24/2007	Repair Conn. Beam	Rod Kiefer	2.5	56.05					\$140.13	42' W x 250 Ton Cap Spreader (11/23)	1 Day	1,000.00	\$1,000.00	Epoxy Crew	60240	"
11/25/2007	Repair Conn. Beam	Rod Kiefer					10.5	92.14	\$967.47					Epoxy Crew	60240	"
11/26/2007	Repair Conn. Beam													Epoxy Crew	60240	"

Labor Surcharge \$2,502.12

Total	KFM Labor Total								\$21,749.21	KFM Equipment Total			\$2,243.75	Lotus Total		\$192,450.00
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Proposed	Eastbound: 1 day mobilization & 1/2 day labor	<4,000.00>
Credits	Westbound: 1 day mobilization & 1/2 day labor	<4,000.00>
		<\$8,000.00>

Total	KFM Labor Total								\$21,749.21	KFM Equipment Total			\$2,243.75	Lotus Total		\$184,450.00
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Rates* Operators at Group 1 rates; PBF/PB per agreement at CT pricing methodology